

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 12 May 2015 at 1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, D Freeman, S Iveson, C Kay, A Laing, B Moir and K Shaw

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, J Lethbridge and R Lumsdon.

2 Substitute Members

There were no substitute Members.

3 Minutes

It was highlighted that at page 8 of the printed Minutes, at discussions on item 5a, the word "approval" should be changed to "refusal" in the following sentence:-

"Upon a vote being taken approval of the application was defeated".

With the amendment noted, the Minutes of the meetings held on 14 April 2015 were confirmed as correct a record and signed by the Chairman.

4 Declarations of Interest

In relation to item 5c Councillor P Conway clarified that, although a member of Belmont Parish Council, he had taken no part in discussions on planning related business at the Parish Council.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a 4/12/00974/FPA – Land to Rear of 53 Whinney Hill, Durham City, DH1 3BD

The Committee considered a report of the Senior Planning Officer regarding the erection of a detached dwelling at land to the rear of 53 Whinney Hill, Durham City, DH1 3BD (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site and were familiar with the location and setting.

Mrs J Gill, local resident, addressed the Committee to speak in objection to the application on behalf of Mr A Hayton, Chairman of Whinney Hill Community Group.

Mrs Gill highlighted that the report acknowledged there had been 11 objections to the application, however she advised that as 5 of the nearby 8 properties were HMO's, including 53 Whinney Hill, then those objections represented a substantial local response and attention was drawn to paragraph 38 of the report in that regard.

Local residents objected to the application on many grounds. It was felt that the proposed in-filling on garden land at 53 Whinney Hill, an area within the Durham City Conservation Area, seemed obtrusive and out of character with the 2 areas of buildings it would confront, which were originally council housing.

Members were advised that the row of 4 terrace houses had been built in the 1930's in a distinctive coherent style throughout the estate, all with front and rear gardens. Subsequently the 1960's uniform development of terrace housing and maisonette blocks of The Hallgarth had been built on the ancient Priory farmyard in a landscaped setting with gardens.

Mrs Gill suggested that the proposed building seemed to ignore the scale, style, design and materials of the surrounding buildings, which had been recommended in the Durham County design advice leaflet No.2, and in no way contributed to the character of the area.

Members were advised that proposed isolated, detached dwelling would be built to let to students and would dominate the remaining area of the garden at 53 Whinney Hill and also affect the outlook of the resident family at 52 Whinney Hill. Furthermore Mrs Gill felt that the dwelling would stick out in the party of The Hallagrth which it would face. It was felt the proposal signified overdevelopment of the backland garden area of a mid-terrace house, which was in contravention of saved Local Plan Policy H10.

Mrs Gill advised that the application showed no commitment to reasonable garden space for its residents, despite the assertion that it would be a family home. Furthermore it denigrated the existence of garden use , which was at odds with the character of the area and as such contrary to saved Local Plan Policy H13.

As in recent years, both The Hallgarth and Whinney Hill had been overwhelmed by buy to let student properties and so it was feared that the proposed development would be an addition to such student accommodation by the landlord of 53 Whinney Hill. It would therefore further erode the possibility of a balanced community in an already critical area of student overcrowding in the Durham Conservation Area, contravening saved Local Plan Policy H9.

Mrs Gill stated that the dwelling would not contribute any Council Tax to the County finances and advised that there were also several unresolved issues such as the position of Northumbrian Water's sewer in relation to the site.

The question of access to the building from The Hallgarth which required taking a strip of Council land, seemed dubious to local residents. It also seemed to contravene the traffic and parking recommendations of Policies T1 and T10 in seeking to provide 2 car parking spaces and to conflict with the Planning Officers observation at paragraph 44 of the report.

Mrs Gill advised that there was also cause for concern that the separation distances between the proposed building and both the nearest terraced properties, fell below requirements under Policy Q8 of the saved Local Plan.

Members were advised that objectors were shocked at the dismissive approach of the planning department as expressed in the conclusion of the report. Mrs Gill stated that to grant permission could create a dangerous precedent for further buildings on garden land behind Whinney Hill properties backing on to The Hallgarth and the Council track. Finally, Mrs Gill stated that the large number of conditions attached to the recommendation indicated the undesirability of the development.

Councillor D Freeman concurred with the views expressed by Mrs Gill and felt the proposal was poor development.

He stated that the application was contrary to saved Local Plan Policy H2 as the application site was greenfield land. Furthermore he felt that the application would have an inappropriate impact on the surrounding character of the area and thus was contrary to saved Local Plan Policy H10. Councillor Freeman also stated that the proposals would add nothing of benefit to the city conservation area.

In response to a query from Councillor Freeman, the Senior Planning Officer clarified that part of the area to be used for parking was Council owned and that there was an agreement between to the applicant and the Asset Management Team with regards the sale of that land.

Councillor Moir advised that having grown up in the area of the application site, he had been unaware the area was within the conservation area. In his opinion the area was completely overshadowed, not least by the adjacent prison and he highlighted that development had been ongoing in that area for many years. Councillor Moir could see no environmental reasons to refuse the application, pointing out that the area was predominantly former social housing and the proposal was development within a back garden.

In response to a query from Councillor J Clark, the Senior Planning Officer clarified that there had formerly been a garage building on the application site which had been demolished approximately 1 year earlier. Members were further advised that the NPPF did not preclude greenfield development especially within the curtilage of an existing property.

Seconded by Councillor A Laing, Councillor G Bleasdale moved approval of the application and upon a vote being taken it was,

Resolved: “That the application be approved subject to the conditions detailed within the report”.

b DM/15/00542/FPA – Land adjacent to Fir Tree Inn, Durham Road, Wingate

The Committee considered a report of the Senior Planning Officer regarding the construction of 10no. dwellings at land adjacent to the Fir Tree Inn, Durham Road, Wingate (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members were advised that since the report had been published, the Environment Agency had confirmed that it had no issues with the application but had requested that should permission be granted, 3 additional conditions be imposed as follows:-

Condition 1:

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete

and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Condition 2:

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Condition 3:

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Councillor A Laing advised that she passed the site regularly and in moving approval of the application, stated that she was confident the proposed development would tie in well with the surrounding properties.

In response to a query from Councillor M Davinson, the Senior Planning Officer clarified that there had been a lot of negotiation with the developer especially in relation to the proposals for the properties which would be positioned at the front of the site. There had been many changes made to arrive at a satisfactory proposal in terms of scale, design and layout.

In response to a query from Councillor C Kay, the Senior Planning Officer clarified that the S106 contributions per dwelling were currently based on the relevant saved Local Plan.

Councillor B Moir seconded the motion to approve the application and upon a vote being taken it was;

RESOLVED:- "That the application be approved subject to the conditions detailed within the report and for the reasons detailed within the report and the 3 additional conditions recommended by the Environment Agency as follows:-

Condition 1:

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall

take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Condition 2:

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Condition 3:

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

c DM/15/00911/RM – Land to the North of Willowtree Avenue, Gilesgate Moor

The Committee considered a report of the Senior Planning Officer regarding a reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space. Also discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT at land to the north of Willowtree Avenue, Gilesgate Moor (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members were advised that a landscape plan had not been submitted and so would be required should permission be granted.

Mr Pears, local resident, addressed the Committee to speak in objection to the application. When the application had been completely rejected by the Committee in January 2015, residents had hoped that their concerns would be acted on by the applicant. However Mr Pears advised that had not been the case and instead the residents felt that the applicant had treated them with contempt. The public consultation which followed consisted only of residents being provided with a map of new proposals and the applicant had refused to engage with residents in relation to their concerns.

Mr Pears stated that the only change to application since January was the position of some properties. The tallest dwellings remained at the highest area of the site and so the issue of overlooking at the south side of the site was still of concern.

The developer had neglected to address the concerns relating to traffic problems, issues which had been experienced first-hand by the Committee during a previous visit to the site. Arrangements for works traffic also remained the same and the related concerns had again been ignored.

Other issues raised previously by residents had been ignored such as issues relating to flooding, separation distances between dwellings, excessive density of the proposed development and the contamination of the site.

Mr Pears felt that the developer had done the bare minimum in amending the proposals since the application had last been refused by the Committee. He highlighted that previously the Planning Inspectorate found that any development of the site would go against the core principles of the NPPF and Mr Pears pointed out that saved Local Plan Policy Q8 and part 7 of the NPPF were there to protect against over dense, overbearing and unsympathetic development schemes.

Councillor B Howarth, Belmont Parish Council, addressed the Committee to speak in objection to the application. The Parish Council acknowledged that the proposed density of the development was less than that which had been granted outline planning permission. However the Parish remained disappointed with the proposals, particularly as the only affordable housing element was a block of apartments. Members were advised that none of the proposed dwellings were suitable for elderly residents, dwelling types which were much needed in the area.

Councillor Howarth echoed the concerns raised by Mr Pears in relation to the tallest dwellings being situated at the highest area of the site. Concerns were also raised in relation to the potential for parked cars to overflow onto the adjacent highway. The proposal for the bin store at the apartment block was also a cause for concern as it would be situated on the street front and could be an eyesore.

Members were advised that 3 storey development in that area was considered completely unacceptable and would have an adverse effect on residential amenity, thus contravening saved Local Plan Policy Q8 and part 7 of the NPPF.

Mr N Morton, agent for the applicant, addressed the Committee. Members were advised that following the refusal of planning permission in January 2015 the applicant had reviewed carefully the reasons for refusal and had met with officers and local Members to address the issues raised. Following that, a consultation had been held in February 2015 and further to the issues raised during that process, the applicant had updated the proposals as reasonably as possible.

Members were reminded that the site had consent for the development of 49 dwellings and access arrangements had already been dealt with. Issues relating to parking arrangements were not relevant to the current application as approval was only being sought in relation to design and layout.

Mr Morton advised that the allocation in the County Durham Plan was actually for 60 dwellings at the site, as such the proposed density of development was much lower. Furthermore the applicant was confident that the current proposals would have much less impact on the highway.

All 2.5 storey dwellings which had been adjacent to existing properties had now been removed from the proposed scheme. In addition all separation distances had been increased. Amendments had also been made to design and window arrangements.

Mr Morton highlighted that Design and Conservation Officers and the Highways Authority had no objections to the proposals.

In relation to the 3 storey apartment block Mr Morton highlighted that there was already a similar building to the east of the site.

Councillor P Conway advised that he was aware that the proposals were a contentious issue locally. He reiterated concerns that he had raised previously that the final decision for outline permission had been taken while an appeal decision was outstanding.

He did acknowledge that since the last application before Committee, the applicant had undertaken a consultation and had taken on board some of the concerns which had been raised. Councillor Conway however highlighted that it took for the application to be refused by the Committee in January 2015 for local residents to get a say in the proposals. Furthermore, the consultation had been very last minute and he did not feel that it had been acceptable.

Councillor Conway believed that saved Local Plan Policies H13 (character and amenity), H12 (affordable housing element), Q8 (layout) and the NPPF in relation to design, layout and sustainability, were all relevant reasons for the application to be refused. He believed that there remained issues with regards the drainage, flooding and ecology of the site. Councillor Conway also remained concerned about overbearing impact from the 3 storey apartment block. As such, Councillor Conway moved that the application be refused.

In response to a query from Councillor B Moir, the Senior Planning Officer clarified that the landscape plan had been submitted however had not been included in the Committee report under condition no.2.

Councillor Moir felt that rather than being a consultation, what the applicant had actually undertaken in February 2015 had been a presentation. Residents had been provided with a map which basically set out the applicants plans and that process had not been intended as an opportunity to engage with residents over their concerns. Councillor Moir believed that the current proposals were based on the best option for the applicant as opposed to being based on the views of local residents.

In relation to the 3 storey apartment block, Councillor Moir believed it remained too high and too close to existing dwellings and would be best placed at the lower point of the site. He seconded the motion to refuse the application.

In response to a query from Councillor J Clark, the Senior Planning Officer clarified on a site layout map the location of the 2.5 storey dwellings. In relation to a query regarding floor levels, he further clarified that the finished floor level of the 3 storey block would be no higher than that of existing properties.

Councillor Conway clarified the reasons for moving refusal of the application as follows:-

The development would not be appropriate in layout, design and scale to the character of its surroundings and would detrimentally affect amenity within the locality, contrary to Policy H13 and Q8 of the City of Durham Local Plan and Part 6 and 7 of the National Planning Policy Framework. Further, that the quality of affordable housing and the design of the apartment block were contrary to saved Local Plan Policy H12.

Following advice from the Solicitor and Senior Planning Officer, policy H12 was removed as a reason for refusal as it was not relevant.

Councillor Moir supported the final reasons for refusal and stated that residents, officers and Members all had a common goal of arriving at the best possible solution for development of the site in terms of design, scale and layout. While it was acknowledged that there was outline permission for development of the site, the final scheme had to be satisfactory to all concerned parties.

Councillor Kay acknowledged that there would eventually be development on the site at some point, however he too had reservations about the current proposals, particularly the proposal to place the tallest dwelling at the highest part of the site.

Indeed he could see very little difference between the current application and that which had been considered by the Committee in January 2015. He supported the motion to refuse the application and urged the developer and the residents to communicate with one another to arrive at a mutually agreeable solution for the site.

The Senior Planning Officer took the opportunity to address some of the points raised as follows:-

- Floor levels and building heights – In relation to the 3 storey apartment block, the Committee was advised that in relation to residential amenity, the block would not have a detrimental effect as it would be situated well within the site and would not be positioned next to any existing properties;
- Design – There was already a 3 storey block of flats in the area and the proposed block would not be overly big by comparison;
- The 2.5 storey dwellings which originally would have abutted Willowtree Avenue had now been relocated.

Councillor D Freeman concurred with the motion to refuse the application. Only slight changes had been made to the proposals since January 2015 and he concurred with comments from other Members that he wished only to see the best development scheme for the site.

Upon a vote being taken it was,

RESOLVED:- “That the application be **REFUSED** as the development would not be appropriate in layout, design and scale to the character of its surroundings and would detrimentally effect amenity within the locality, contrary to Policy H13 and Q8 of the City of Durham Local Plan and Part 6 and 7 of the National Planning Policy Framework”.